

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

NAVY SEAL 1, et al.,

Plaintiffs,

v.

CASE NO. 8:21-cv-2429-SDM-TGW

LLOYD AUSTIN, et al.,

Defendants.

ORDER

A November 22, 2021 order (Doc. 40) requires — as a temporary measure — the defendants to submit every fourteen days a notice stating, among other things, the number of appeals from a denial of a request for a religious exemption or accommodation in connection with a COVID vaccination. According to the defendants' third notice of compliance (Doc. 73), the Navy has denied 81 appeals and granted none, the Marine Corps has denied 119 appeals and granted 3, and the Air Force has denied 443 appeals and granted 1 appeal (and granted 8 initial requests). According to the notice, neither the Army nor the Coast Guard has resolved an appeal.

To assist the proper determination of pending motions in this difficult, consequential (to many), and somewhat novel action involving the fundamental Free Exercise rights of a formidable number of service members, as well as the vital national interest in maintaining the readiness of the armed forces, not later than **FEBRUARY 16, 2022**, the defendants must file for each of the Navy, Marines, and Air

Force (1) each letter or memorandum granting a religious exemption (whether granted initially or after appeal), (2) the twenty-five most recent denials after appeal and the underlying denial of the initial request, and (3) for each grant or denial the service member's initial request and the service member's letter beginning the appeal. For each grant and denial in (1) and (2) and at their discretion, the defendants may submit under seal any other item in the administrative record of an applicant. The defendants must submit by USB the items under seal, may redact any personal identifying information, and must serve the plaintiffs with a copy of the submission. Pending further order, the plaintiffs' counsel must not reveal the contents of this submission to anyone not a counsel appearing in this action.*

ORDERED in Tampa, Florida, on February 13, 2022.



STEVEN D. MERRYDAY
UNITED STATES DISTRICT JUDGE

* Like the temporary bi-weekly reporting requirement, this order serves to expedite and ensure the prompt availability of information basic and essential to the determination of pending motions, avoids the rigors and delay that history confirms will often accompany discovery requests in the incipient stage of vigorously contested litigation, and permits a more informed determination of a request for preliminary or other expedited relief directed toward an alleged imminent injury to Free Exercise. Accordingly, the temporary reporting requirement in the earlier order (Doc. 40) is **VA-CATED** without prejudice to the plaintiffs' future discovery. Absent an extraordinary circumstance, no further court-initiated request for information will occur.